

IN SENATE OF THE UNITED STATES.

JANUARY 18, 1848.

Submitted, and ordered to be printed.

Mr. JOHNSON, of Louisiana, made the following

REPORT:

[To accompany bill S. No. 91.]

*The Committee on Pensions, to whom was referred the petition of Elizabeth Jones, and the other children of John Carr, deceased, report:*

That this case was examined by the Committee on Pensions, of the Senate, during the first session of the last Congress, by whom a favorable report was made thereon, (March 30, 1846,) a copy of which is herewith submitted; that they have examined the said report with care, and concurring therein, now adopt it as a part of their report. And the committee report a bill for the relief of the petitioner.

IN SENATE OF THE UNITED STATES.—March 30, 1846.

Mr. JOHNSON, of Louisiana, made the following report:

*The Committee of the Senate on Pensions, to whom the petition of Elizabeth Jones, and the other children of John Carr, was referred, have given it a careful examination, and report:*

That the petitioners ask to be allowed the amount of pension which they allege to have been *erroneously withheld* from their father, from some time in the year 1818, when his application for a pension was rejected by the Commissioner of Pensions, to June, 1831, at which time he was placed on the pension roll.

It appears, from satisfactory evidence on file, that John Carr did apply, in the year 1818, for a pension under the act of the 18th of March, 1818, in consideration of his services as a private in the regiment of Colonel George Gibson; that his application was made in the form prescribed by that act; and that a pension would have been then allowed him, but for the decision of the Commissioner of Pensions that Gibson's was not a continental regiment, and there-

fore not embraced in the act of March, 1818. That this decision of the Commissioner of Pensions was *erroneous*, and no doubt the result of his *then* want of the history of the character of the *actual service* of that regiment, subsequent events clearly show. The administration of the act of the 15th of May, 1828, which allowed pensions to such officers of the army as had *served* on the *continental establishment*, involved a full examination of the claim of the officers of Gibson's regiment to the benefit of that act. The result was, they were allowed the benefit of that act, seeing that, though by original organization it was a State regiment, it was, by an act of the Virginia Assembly of October, 1777, *transferred* from the *State service* to "*serve on the continental establishment, in lieu of, and as a substitute for, the ninth Virginia continental regiment*," which had just then been annihilated at the battle of Germantown; in which service it continued more than two years. Upon the *same construction of the act of the 18th of March, 1818*, which directs a pension to be allowed to such officers and soldiers as had *served* a specified time on the *continental establishment*, pensions have been allowed to the officers and privates of Gibson's regiment, by the Commissioner of Pensions, since 1830; and amongst others, it was allowed to John Carr, in 1831, for the same service that he claimed on in 1818. And Congress, by repeated acts, as the journal will show, has sanctioned the aforesaid construction of the acts referred to.

Assuming, then, as the committee feel warranted to do, that John Carr had a legal claim to the pension he applied for in 1818, ought the *erroneous* refusal of the Commissioner of Pensions to allow it to him, to deprive him of it? The committee think that it ought not. By the third section of the act of the 18th of March, 1818, the pension is to *commence from the date of application*. And as it has been the uniform practice of Congress, founded in justice, to cause *that to be done* which *rightfully ought to have been done*, the committee, in the same spirit, respectfully recommend that the amount of pension which *ought to have been allowed* to John Carr, from the year 1818 up to 1831, be paid to the petitioners, (his children,) who, though needy themselves, gave that support to their aged and infirm father which a liberal government had provided for him, but which, as has been stated, was, in the opinion of the committee, *erroneously* withheld from him by the error of an officer of the government. To provide for which, a bill is herewith reported.